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| 09/918,050 | 07/30/2001 | Klaus Peter Thierschmidt | 112740-260 | 9823 |
| 29177 | 7590 | 05/02/2005 | EXAMINER | |
| BELL, BOYD & LLOYD, LLC P. O. BOX 1135 CHICAGO, IL 60690-1135 | | | CAMPBELL, JOSHUA D | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2179 | |

DATE MAILED: 05/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/918,050

Applicant(s)

THIERSCHMIDT, KLAUS PETER

Examiner

Joshua D Campbell

Art Unit

2179

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is responsive to communications: Amendments filed on 02/25/2005.
2. Claims 1-12 are pending in the case. Claims 1, 9, and 11-12 are independent claims. Claims 2, 9, 11, and 12 have been amended.

Information Disclosure Statement

The information disclosure statement filed 7/30/2001 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered. **Proper correction is required.**

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 9-12 remain rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The data structure (i.e. computer program) of the claims is not embodied on a computer readable medium.

The MPEP states:

Claims to computer-related inventions that are clearly nonstatutory fall into the same general categories as nonstatutory claims in other arts, namely natural

phenomena such as magnetism, and abstract ideas or laws of nature which constitute "descriptive material." Abstract ideas, *Warmerdam*, 33 F.3d at 1360, 31 USPQ2d at 1759, or the mere manipulation of abstract ideas, *Schrader*, 22 F.3d at 292-93, 30 USPQ2d at 1457-58, are not patentable. Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality **when employed as a computer component**. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." *The New IEEE Standard Dictionary of Electrical and Electronics Terms* 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works and a compilation or mere arrangement of data.

Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus

statutory.

In order to correct this rejection, the phrase "A program tangibly embodied on a computer readable medium..." should be applied. The statement "...for execution by a processor..." does not render the claim statutory. **Proper correction is required.**

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4, and 6-12 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Chester et al. (hereinafter Chester, Mastering Excel 97 4th edition, published in 1997).

Regarding independent claim 1, Chester discloses a method in which a plurality of columns exists that is being displayed to a screen (Page 133 of Chester). Chester discloses a method in which a column that contains data larger than its prescribed width is detected (Page 133 of Chester). The data in the column is then rendered at an amount that is less than the width that was prescribed for the column (Page 133, Book 1, column B of Chester). Chester does not disclose a method which explicitly is based on the number of characters, however it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the method of Chester with the use of number of characters because as shown in Chester (page 132,

"Wrap Text" of Chester) it was well known that the number of characters, length (inches, centimeters, etc.), and number of pixels are measures of length used in words processing functions, thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to have implemented the functionality of all length types shown by Chester.

Regarding dependent claim 2, Chester discloses a method in which a determination about how much of the output to suppress is made (Pages 132-133 of Chester). Chester also discloses a method in which the width values of all columns will be checked (Pages 75-76 and 132-133 of Chester) and if necessary the corrections to the data by reduction will be made in order to fit the data output to the prescribed width (Pages 75-76 and 132-133 of Chester). Chester does not disclose a method which explicitly is based on the number of characters, however it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the method of Chester with the use of number of characters because as shown in Chester (page 132, "Wrap Text" of Chester) it was well known that the number of characters, length (inches, centimeters, etc.), and number of pixels are measures of length used in words processing functions, thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to have implemented the functionality of all length types shown by Chester.

Regarding dependent claims 3, Chester discloses a method in which if the characters to be rendered have been changed the checking of the width values is

repeated with the new renderings to see if a change to the data must be made based on the width value (Pages 75-76 and 132-133 of Chester).

Regarding dependent claim 4, Chester discloses a method in which if none of the data exceeds the width value the auto-format function has the power to decrease (decrement) the width values (Pages 75-76 of Chester).

Regarding dependent claim 6, Chester discloses a method in which the columns may contain column headings and the headings will be treated the same as all other data when the rendering is shortened (Page 133, Second Figure, Row 8 of Chester).

Regarding dependent claim 7, Chester discloses a method in which column headings may be treated separately from the table and have a greater number of characters than the other data (Page 133, Second Figure, Row 1 of Chester). Chester also discloses a method in which markers (tabs) are shown for column headings (Page 133, Book 1, Borders of the Table (i.e. A-H) of Chester).

Regarding dependent claim 8, Chester discloses a method in which a smaller number of characters are rendered for a column, but that no text (including numerals) is eliminated, rather moved to a new row (Pages 132-133, Wrap Text of Chester).

Regarding independent claim 9, Chester discloses a method in which a plurality of columns exists that is being displayed to a screen (Page 133 of Chester). Chester discloses a method in which a column that contains data larger than its prescribed width is detected (Page 133 of Chester). The data in the column is then rendered at an amount that is less than the width that was prescribed for the column

(Page 133, Book 1, column B of Chester). Chester does not disclose a method which explicitly is based on the number of characters, however it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the method of Chester with the use of number of characters because as shown in Chester (page 132, "Wrap Text" of Chester) it was well known that the number of characters, length (inches, centimeters, etc.), and number of pixels are measures of length used in words processing functions, thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to have implemented the functionality of all length types shown by Chester.

Regarding dependent claim 10, Chester discloses a method in which a determination about how much of the output to suppress is made (Pages 132-133 of Chester). Chester also discloses a method in which the width values of all columns will be checked (Pages 75-76 and 132-133 of Chester) and if necessary the corrections to the data by reduction will be made in order to fit the data output to the prescribed width (Pages 75-76 and 132-133 of Chester). Chester does not disclose a method which explicitly is based on the number of characters, however it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the method of Chester with the use of number of characters because as shown in Chester (page 132, "Wrap Text" of Chester) it was well known that the number of characters, length (inches, centimeters, etc.), and number of pixels are measures of length used in words processing functions, thus it would have been obvious to one of ordinary skill in the art

at the time the invention was made to have implemented the functionality of all length types shown by Chester.

Regarding independent claims 11 and 12, the claims incorporate substantially similar subject matter as claim 9. Thus, the claims are rejected along the same rationale as claim 9.

6. Claim 5 remains rejected under 35 U.S.C. 103(a) as being unpatentable over Chester et al. (hereinafter Chester, Mastering Excel 97 4th edition, published in 1997) as applied to claim 1 above, and further in view of Lowitz et al. (hereinafter Lowitz, US Patent Number 5,485,554, issued on January 16, 1996).

Regarding dependent claim 5, Chester does not disclose a method in which when printing the selection of portrait versus landscape is automatically made. However, Lowitz discloses a method in which the selection of portrait versus landscape printing options is made automatically (column 13, line 14-34 of Lowitz). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the method of Chester with the method of Lowitz because it would have allowed for a printed version of a document to be printed on a page in the format which entails the best fit.

Response to Arguments

7. Applicant's arguments filed 02/25/2005 have been fully considered but they are not persuasive.

Regarding the applicants on pages 6-7, regarding the prima facie obviousness proposed by the examiner in light of the Chester reference, the examiner feels that this is a proper statement of obviousness, and the citations have been added to the rejection to further clarify how the obviousness was concluded. It was stated by the examiner that Chester does not explicitly state that the number of characters is directly used as a measure of width, which the examiner believes to be true. Chester does disclose a method labeled "Wrap Text" on pages 132-133, in which the number of characters across the width of a column that are displayed are less than the total length of a character string. It is never explicitly stated in the Chester reference that the determination was made based solely on the number of characters, however, the claim states that "...a number of character to be rendered, which is less than a number of characters in a row having the most characters in the one column," which as can be obviously deduced from the Chester reference, because the number of characters shown in the illustration on page 133 as an example of the "Wrap Text" method shows that the number of characters spanning the width of a column is less than the number of characters in a row having the most characters in the one column, thus the decision is based on the number of characters that can fit in the predetermined width. Therefore, the examiner maintains that it would have been obvious to one of ordinary skill in the art at the time the invention was made as shown by the Chester reference to use the number of characters as a measurement of length.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua D Campbell whose telephone number is (571) 272-4133. The examiner can normally be reached on M-F (8:00 AM - 4:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached on (571) 272-4136. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2179

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JDC
April 20, 2005


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